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HUMAN RIGHTS QUESTIONS

Allegations regarding infringements of trade union rights in South Africa

Note by the Secretariat

1. The Economic and Social Council, in resolution 1990/44 of 25 May 1990, requested the Ah Hoc Working Group of Experts on southern Africa to continue to study the situation relating to allegations of infringements of trade union rights in South Africa and to report thereon to the Commission on Human Rights and the Economic and Social Council.

2. The Ah Hoc Working Group of Experts submitted to the Commission on Human Rights at its forty-seventh session a report (E/CN.4/1991/10) prepared in accordance with Commission resolutions 1990/11, 1990/26 and 1990/60. The section of the report that is relevant to the Council's request is reproduced in the annex to the present note.

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* E/1991/30.

READEX FICHE

Annex

IV. RIGHT TO WORK AND FREEDOM OF ASSOCIATION

A. Situation of black workers

196. At the 771st meeting of the Ad Hoc Working Group, while referring to repression of trade unions in 1989,* the representative of the International Labour Organisation stated that only 7 per cent of black adults in South Africa completed secondary education and 29 per cent obtained no education of any kind.

197. The witness referred to the prolonged campaign carried out throughout 1989 against the Labour Relations Amendment Act 1988, resulting in many meetings and discussions between trade unions and employers, and a seminar in Harare in May 1990 in which, inter alia, the Congress of South African Trade Unions (COSATU), the National Council of Trade Unions (NACTU) and the South African Employers' Consultative Committee on Labour Affairs (SACCOLA) participated to examine how ILO standards could be adopted in the South African context. Despite a high measure of agreement reached between COSATU, NACTU and SACCOLA, leading to an undertaking by the Government to introduce the agreed changes prior to parliamentary sessions ended this year, the Act was not amended.

198. A representative of the International Confederation of Free Trade Unions (ICFTU) testified before the Working Group at its 772nd meeting and stated that basic human and trade union rights continue to be denied to black workers, and that freedom of association remains circumscribed by apartheid and security laws.

199. The same witness also referred to the Labour Relations Amendment Act 1988 which severely restricted the right to strike, removed protection against unfair dismissal, limited the right to negotiate in the event of redundancy, and encouraged racially constituted unions, provisions which are all contrary to international labour standards.

200. Referring to freedom of assembly, the same witness reported that on 1 April 1990, the blanket ban on outdoor political gatherings under Section 46 of the Internal Security Act was renewed for the fifteenth year running. Additional provisions curbed indoor meetings, which can include calls for educational boycotts or work stay-aways. Under the Gatherings and Demonstrations Act, gatherings or demonstrations in or near court buildings are prohibited.

201. In early 1990, it was reported by the same witness, protests by black prison warders against racial discrimination and ill-treatment of black prisoners by white prison warders had resulted in the suspension from duty of the black warders. Only some of them were reinstated, and an inquiry was being carried out to determine

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* Special Report of the Director-General of the ILO on the application of the declarations concerning action against apartheid in South Africa (ILO Conference, 77th session, 1990, p. 34).

whether they were fit to remain in prison service. Furthermore, since 30 March 1990, under the Prisons Act, prior permission must be obtained from the Commissioner of Prisons before establishing or joining a trade union. No employee of a prisons department is permitted to participate in trade union activities or show affiliation to a trade union without prior permission.

B. Trade union activities

202. While referring to the continuing harassment and attacks against trade unionists, the ICFTU representative referred, inter alia, to the incidents related below.

203. In the ongoing National Union of Wines and Spirits and Allied Workers' strike, four members were arrested at the beginning of August 1990. The union was unable to obtain information regarding the charges they were facing. The witness also mentioned several cases of arrests during July 1990 under Sections 27 and 29 of the Internal Security Act, as well as lock-outs.

204. Following a work stoppage, 404 members of the Municipal, State and Allied Workers' Union were arrested on 24 July 1990 as they were walking to their union offices for a meeting. The arrested members faced charges of "constituting a danger to traffic".

205. It may be noted here that, in describing a shift in repressive State tactics, a representative of the South African Human Rights Commission informed the Ad Hoc Working Group at its 791st meeting that obscure traffic laws and local by-laws were being utilized for the purposes of repression.

206. Hundreds of members of the South African Commercial Catering and Allied Workers Union involved in picketing during disputes have been arrested. Although the Labour Relations Amendment Act 1988 is silent on this question, picketers were harassed under obscure municipal by-laws which outlaw advertising without local council permission.

207. It was reported that, in a strike involving the South African Commercial Catering and Allied Workers Union and the Southern Sun Holiday Chain, white schoolchildren were employed and paid wages three times the rate of ordinary workers.

208. It was reported in The Times of 3 May 1990 that Bharagwanath Hospital, the only hospital in Soweto available to the estimated population of over 2 million, had been brought to a standstill on 2 May 1990 by a strike staged by 1,500 non-medical workers demanding "a living wage". The maternity wards had to be closed down and mothers discharged within an hour of giving birth, while the orthopaedic and casualty sections continued to function with very great difficulty.

209. Referring to a mission of the International Confederation of Free Trade Unions (ICFTU) in conjunction with the International Federation of Plantation, Agricultural and Allied Workers Union (IFPAAW), which took place in May 1990, it was reported by the representative of the ICFTU at the 772nd session of the Working

Group that, although access to agricultural workers was difficult, it was found that all black South African farm workers are badly paid and ill-treated. The plight of migrant workers was reported to be especially preoccupying. The treatment of workers was no better than that of animals, and they were often assaulted in the presence of their children. The mission concluded that it is imperative that all South African workers be covered by labour legislation and that farm workers (as well as domestic workers and those employed in the public service) be given basic protection.

210. The same witness said that there had been a rise in the arrest and detention of trade unionists since 2 February 1990, and cited numerous cases of trade unionists who had been harassed or detained under the Internal Security Act. For instance, Sithembala Kale, general secretary of the Media Workers Association, was detained in March and April 1990, together with Horatio Motwadi, Winston Mafudi and Fansi Ongawa.

C. Sanctions and disinvestment in South Africa

211. It was reported in the International Herald Tribune of 20 April 1990 that, according to Professor Arthur Jay Klinghoffer, a specialist in oil politics at Rutgers University, the leading suppliers of crude oil to South Africa over the past decade were Saudi Arabia, the United Arab Emirates and Oman. Other Arab States included Qatar, Bahrain, Kuwait and, to a lesser degree, Egypt, Iran and the People's Democratic Republic of Yemen. Mr. Klinghoffer claimed that 80 per cent of South Africa's oil imports consisted of Gulf oil.

212. According to the testimonies received by the Ad Hoc Working Group, there was a consensus of opinion that sanctions on South Africa must continue. The witnesses from South Africa were especially insistent on it and said that the black population of South Africa would not call for a halt to sanctions and disinvestment, so long as the "pillars" of apartheid such as the Group Areas Act, Population Registration Act and Land Act were still intact.